

tion of the action of the Convention on S&E-5, Committee of the Whole Report No. 9, and GP-4. I understand that is in order, but cannot be taken up until the lapse of one day. Is that correct?

THE PRESIDENT: That is correct. It is the second session day after the motion.

DELEGATE JOHNSON: I so move, Mr. President.

THE PRESIDENT: Is there a second to the motion?

(Whereupon, the motion was duly seconded.)

THE PRESIDENT: It is moved by Delegate Johnson, seconded by Delegate Boileau, that the Convention reconsider the vote by which Committee Recommendation GP-4, as amended, was adopted.

Pursuant to the rule, the motion will be put on the calendar for action at such time as the Committee on Calendar and Agenda provides, not earlier than the second session day after today.

It has been regularly moved and seconded that the Convention resolve itself into the Committee of the Whole.

All those in favor, signify by saying Aye; contrary, No. The Ayes have it. It is so ordered.

(Whereupon, at 9:45 P.M., the Convention resolved itself into the Committee of the Whole.)

(The mace was removed by the Sergeant-at-Arms.)

COMMITTEE OF THE WHOLE

DECEMBER 13, 1967—9:45 P.M.

PRESIDENT H. VERNON ENEY,
PRESIDING

THE CHAIRMAN: The Committee of the Whole will please come to order.

At the time the Committee of the Whole recessed it had under consideration Amendment No. 3 to section 3 of Committee Recommendation R&P-2.

I believe Delegate Weidemeyer had the floor at the time.

DELEGATE WEIDEMEYER: Mr. President, I think I had concluded my remarks in opposition to Amendment 3, and I wanted to ask Delegate Henderson some questions, but I think I concluded those.

THE CHAIRMAN: I do not desire to encourage further discussion.

DELEGATE WEIDEMEYER: The only suggestion I have is that Delegate Scanlan withdraw this amendment, and if he has any objection to the separation of powers doctrine as enunciated by GP-11, that he bring in his amendment at that time, and probably he will not have any objection.

THE CHAIRMAN: Delegate Scanlan.

DELEGATE SCANLAN: I do not want to withdraw the amendment, Mr. Chairman.

THE CHAIRMAN: Very well. Let's proceed.

Is there any further discussion?

Delegate Gleason.

DELEGATE GLEASON: Mr. Chairman and fellow delegates:

I would be very concerned if the delegates of the Committee of the Whole did not realize the importance of this attempt to remove a section from this constitution which has been in every constitution in the State of Maryland and has been there in modified form in the last section before the Committee of the Whole, though it states that the branches of government shall be forever distinct and separated. It has been in the Maryland Constitution since 1851.

Frankly, I find it a little difficult to understand the concern of Judge Henderson who states what great harm the permanence of this recommendation by the Committee will have if it stays in the Constitution, in view of the fact that this has long history, in view of the fact we have had separate branches of government. We have had administrative agencies. I find it particularly difficult to understand his concern when this provision of the Constitution, not only in the Constitution of 1867 but going back to the original Constitution of Maryland, has been continuously construed by the highest courts of Maryland. It has been construed in cases involving executive usurpation of legislative power; it has been construed in cases involving judicial usurpation of legislative and executive power; and it has been construed in cases of legislative usurpation of judicial and executive power.

This is a very, very important part of any constitutional document. It means precisely what it says. It means that the power granted in the constitution shall be granted to a branch of government, and it shall not be granted and shall not be used by any other branch of the government.